

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil Action. No. _____
v.)	
)	
MORA DEVELOPMENT CORPORATION)	STIPULATION AND
and MORA DEVELOPMENT, S.E.)	SETTLEMENT AGREEMENT
)	
Defendants.)	
)	

WHEREAS, Plaintiff United States of America, on behalf of the United States Environmental Protection Agency (“EPA”), has filed a complaint in this action (“Complaint”) alleging that Mora Development Corporation (“MDC”) and Mora Development, S.E. (“MDSE”) (collectively, “Defendants”) violated Section 301 of the Clean Water Act (the “Act”), 33 U.S.C. § 1311, arising from their unpermitted discharges of pollutants to waters of the United States.

WHEREAS, Defendants do not admit any liability to the United States arising out of the transactions or occurrences alleged in the Complaint.

WHEREAS, the United States has reviewed Financial Information regarding Defendants and has determined that Defendants have a limited ability to pay a civil penalty in this matter. “Financial Information” as used in this paragraph means the tax returns, balance sheets, financial statements, and bank records that Defendant submitted to the United States prior to December 3, 2018.

WHEREAS, the United States and Defendants (collectively, the “Parties”), agree that settlement of the United States’ claims against Defendants, without further litigation, is in the public interest.

WHEREAS, the Parties further agree that the Court's approval of this Stipulation is an appropriate means of resolving the claims in this action.

NOW THEREFORE, before the taking of any testimony, without adjudication or admission of any issue of fact or law, except as provided in Paragraph 1, below, as the Parties agree as follows:

1. This Court has jurisdiction over the Parties and the subject matter of this action pursuant to Sections 309(b) and (d) of the Act, 33 U.S.C. §§ 1319(b), and (d), and pursuant to 28 U.S.C. §§ 1331, 1345, and 1355. Venue is proper in the District of Puerto Rico pursuant to Section 309(b) of the Act, 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1391(b) and 1395, because the alleged violations occurred in this district, and because the Defendants reside and have their principal places of business in this district. Defendants waive any and all objections they may have to the Court's jurisdiction or venue for purposes of this Stipulation, and agree to be bound by this Stipulation.

2. The effective date of this Stipulation ("Effective Date") is the date upon which the Court enters an Order approving this Stipulation.

3. **Civil Penalty.**

a. Within 45 days after the Effective Date, Defendants shall pay \$242,400 as a civil penalty.

b. Defendants shall make payment at <https://www.pay.gov> to the U.S. Department of Justice account, in accordance with instructions provided to Defendants by the Financial Litigation Unit of the United States Attorney's Office for the District of Puerto Rico ("FLU"). The payment instructions provided by the FLU shall include a Consolidated Debt Collection System ("CDCS") number, which shall be used to identify all payments required to be

made in accordance with this Stipulation. The FLU shall provide the payment instructions to Defendants' representative(s) in accordance with Paragraph 7.

c. At the time of payment, Defendants shall send notice that payment has been made to EPA and the Department of Justice ("DOJ") in accordance with Paragraph 7, and to the EPA Cincinnati Finance Office by email at cinwd_acctsreceivable@epa.gov or by mail in accordance with Paragraph 7. Such notice shall reference the CDCS Number and DOJ Reference Number 90-5-1-1-11009 (the "DJ Number").

d. Defendants shall be jointly and severally liable for the payment of the civil penalty identified in sub-paragraph (a) of this paragraph.

4. **Certification.** Defendants hereby certify, to the best of their knowledge and belief, after thorough inquiry, (a) that they have submitted to the United States Financial Information that fairly, accurately, and materially sets forth their financial circumstances; (b) that those circumstances have not materially changed between the time the Financial Information was submitted to the United States and the time Defendants signed this Stipulation; and (c) that they do not have any insurance policies that may cover any payment of a civil penalty relating to this matter.

5. **Stipulated Penalties and Interest.**

a. If Defendants violate Paragraph 3, Defendants shall pay to EPA, as a stipulated penalty, \$500 for each day that such payment is late, plus an additional sum for interest at the rate of 2.32% per annum accrued on the unpaid portion of the principal amount. The interest shall be calculated from the date payment is due through the date of payment. The FLU shall send a calculation of the interest due to Defendants.

b. Stipulated penalties are due and payable within 30 days after the date of the demand for payment of the penalties by EPA. All payments under this paragraph shall be identified as “stipulated penalties” and shall be made by Fedwire Electronic Funds Transfer to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read: “D 68010727
Environmental Protection Agency”

c. All payments under this paragraph shall reference the CDCS Number and the DJ Number.

d. At the time of payment, Defendants shall send notice that payment has been made for stipulated penalties to EPA and DOJ in accordance with Paragraph 7, and to the EPA Cincinnati Finance Office by email at [cinwd_acctsreceivable.@epa.gov](mailto:cinwd_acctsreceivable@epa.gov) or by mail in accordance with Paragraph 7. Such notice shall reference the CDCS Number and the DJ Number.

e. Notwithstanding any other provision of this Stipulation, the United States may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Stipulation. Payment of stipulated penalties shall not excuse Defendants from payment of the civil penalty as required by Paragraph 3.

f. Payments made pursuant to this paragraph shall be in addition to any other remedies or sanctions available to Plaintiff by virtue of Defendants’ failure to comply with the requirements of this Stipulation.

g. Defendants shall be jointly and severally liable for the payment of any stipulated penalties and interest that arise under subparagraph 5(a).

6. If the United States brings an action to enforce this Stipulation, Defendants, jointly and severally, shall reimburse the United States for all costs of such action, including costs of attorney time.

7. **Notice.** Whenever, under the terms of this Stipulation, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified in this paragraph shall constitute complete satisfaction of any written notice requirement of the Stipulation with respect to the United States, EPA, DOJ and Defendants, respectively.

As to DOJ:
Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DOJ Case No.: 90-5-1-1-11009

As to EPA:
Evelyn Rivera-Ocasio
Assistant Regional Counsel
Office of Regional Counsel – Caribbean Programs
U.S. Environmental Protection Agency – Region 2
City View Plaza II, Suite 7000
#48 RD. 165 km 1.2
Guaynabo, PR 00968-8069

As to the EPA Cincinnati Finance Office:
EPA Cincinnati Finance Office
26 Martin Luther King Drive
Cincinnati, Ohio 45268

As to Defendants:
Raúl Negrón-Casasnovas, Esq.
Torres & Garcia, P.S.C.
P.O. Box 19539
San Juan, PR 00910-1539

8. Defendants shall not deduct any civil penalty paid pursuant to Paragraph 3 or any stipulated penalties paid pursuant to Paragraph 5 in calculating their federal income tax, if and as applicable.

9. With respect to Defendants, this Stipulation resolves the civil claims of the United States for the violations alleged in the Complaint filed in this action through the date of filing of this Stipulation.

10. The United States reserves, and this Stipulation is without prejudice to, all rights against Defendants with respect to all other matters not asserted by the United States in the Complaint.

11. Notwithstanding any other provision of this Stipulation, the United States reserves, and this Stipulation is without prejudice to, the right to reinstitute or reopen this action, or to commence a new action seeking relief other than as provided in this Stipulation, if the Financial Information provided, or the financial certification made in Paragraph 4, is false, or in any material respect, inaccurate.

12. Each Party shall bear its own costs and attorneys' fees in this matter, except as provided in Paragraph 6.

13. **Integration.** This Stipulation constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the civil settlement embodied in the Stipulation and supersedes all prior civil agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than deliverables that are

subsequently submitted and approved pursuant to this Stipulation, the Parties acknowledge that there are no representations, agreements, or understandings relating to the civil settlement other than those expressly contained in this Stipulation.

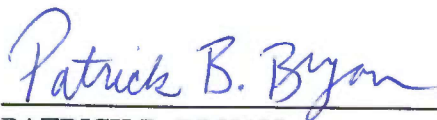
14. Cleofe Rubí, as President of Defendants, and the Deputy Section Chief of the U.S. Department of Justice, Environment and Natural Resources Division, Environmental Enforcement Section, each certify that he or she is fully authorized to enter into the terms and conditions of this Stipulation and to execute and legally bind the Defendants and the United States, respectively, to it.

FOR THE UNITED STATES OF AMERICA:

Dated: March 13, 2019

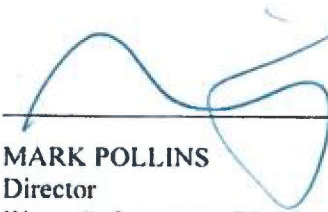


ELLEN M. MAHAN
Deputy Section Chief
U.S. Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section



PATRICK B. BRYAN
Trial Attorney
U.S. Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 616-8299
patrick.bryan@usdoj.gov

Dated: 3/7/19, 2019



MARK POLLINS
Director
Water Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

Dated: 3/7, 2019

Eric SchAAF

for

ERIC SCHAAF
Regional Counsel
Region 2
U.S. Environmental Protection Agency

FOR DEFENDANTS:

Dated: Feb 13, 2019



CLEOFÉ RUBÍ
President
Mora Development Corp.

Dated: Feb 13, 2019



CLEOFÉ RUBÍ
President
Mora Development S.E.